IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

OP.No. 19112 of 2001(A)

PETITIONERS:
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1. **GEORGE THOMAS, ADVOCATE,**
   MEVADA, 44/198, S.R.M. ROAD, COCHIN-18.

2. **MOLLY GEORGE, MEVADA, 44/198,**
   S.R.M. ROAD, COCHIN -18.

BY ADV. SRI.KOSHY GEORGE.

RESPONDENT:

THE TAHSILDAR,
TALIPARAMBA.

BY GOVT. PELADER SRI. MATHEW JOSEPH VADAKKEL.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 16/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 30912/2001 IN O.P. NO. 19112/2001

DISMISSED

16/08/2007. **SD/- T.R.RAMACHANDRAN NAIR, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE RETURN FILED ON 13/03/01 BY THE P.1. DTD. NIL.

EXT.P.2: COPY OF THE RETURN FILED ON 13/03/01 BY THE P.2. DTD. NIL.

EXT.P.3: COPY OF THE NOTICE ISSUED BY THE RESPONDENT TO THE PETITIONERS DTD. 17/03/01.

EXT.P.4: COPY OF THE POSTAL COVER DESPATCHED ON 28/03/01 RECEIVED BY THE PETITIONERS ON 03/04/01.

EXT.P.5: COPY OF THE ORDER IN FORUM V ISSUED BY THE RESPONDENT DTD. 16/04/01 RECEIVED ON 22/05/01.

EXT.P.6: COPY OF THE POSTAL COVER DESPATCHED ON 21/05/01.

EXT.P.7: COPY OF THE PETITION SENT BY THE PETITIONERS TO THE RESPONDENT DTD. 05/06/01.

EXT.P.8: COPY OF THE RETURN FILED BY THE P.1. DTD. 19/04/01.

EXT.P.9: COPY OF THE RETURN FILED BY THE P.1. DTD. 19/04/01.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 19112 of 2001-A.

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Dated this the 16th day of August, 2007.

J U D G M E N T

The petitioners herein are challenging Ext.P5 order passed by the Tahsildar, Taliparamba under the Kerala Building Tax Act. The first petitioner has filed a return Ext.P1 dated 13.3.2001. The return filed by the 2nd petitioner is evident from Ext.P2. Thereafter, it appears that the respondent issued a notice dated 17.3.2001 (Ext.P3) directing them to attend his office on 24.3.2001. Ext.P4 is the photo copy of the cover enclosing Ext.P3 which shows that the same was sent only on 28.3.2001 and the postal seal therein showing date of receipt is seen as 3.4.2001. Ext.P5 has been issued subsequently. When Ext.P3 was served on them, they were under the bonafide belief that they will be given further time. But surprisingly in the meantime they were issued with Ext.P5 which prompted them to submit a further petition (Ext.P7) pointing out the illegality in the matter.

2. In the light of the fact that the petitioners have not been beard in the matter as the notice itself was served on them after the date on which the enquiry was fixed, I find that Ext.P5 cannot be supported. Therefore Ext.P5 is quashed. The respondent is hereby directed to conduct a fresh enquiry in the matter after hearing the petitioners or their authorised agent. The same

shall be done as expeditiously as possible. The interim order granted by this Court on 28.6.2001 will continue in force till orders are passed and communicated to the petitioners. Final order, after due enquiry shall be passed by the respondent within three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-